IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

WP(C).No. 34757 of 2007(K)

PETITIONER:

JISHA A., GREEN VILLA, CHATHANOOR,
KOLLAM.

BY ADV. SRI.P.GOPALAKRISHNAN NAIR

RESPONDENTS:

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1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY
SECRETARIAT, THIRUVANANTHAPURAM.

2. KERALA STATE POLLUTION CONTROL BOARD
REPRESENTED BY ITS SECRETARY, OFFICE OF THE
POLLUTION CONTROL BOARD, PATTOM,
THIRUVANANTHAPURAM.

3. INSTITUTE OF MANAGEMENT IN GOVERNMENT
REPRESENTED BY ITS DIRECTOR, OFFICE OF THE
IMG, KUNNUKUZHI P.O., THIRUVANANTHAPURAM.

4. KERALA STATE PUBLIC SERVICE COMMISSION
REPRESENTED BY SECRETARY, PATTOM,
THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI.BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No. 34757 of 2007

Dated this the 3rd December, 2007

J U D G M E N T

Petitioner contends that she is an Engineering Graduate eligible to apply for the post of Assistant Engineer in the service of the 2nd respondent. Two contentions are essentially raised by the petitioner. One is that the post of Assistant Engineer can be filled up only on selection by the PSC. The second is that the Board has not obtained the approval of the Government for filling up the vacancies in the post of Assistant Engineers.

2. As regards the first contention, the same seems to be covered by a decision of this Court in O.P. No.13535 of 1995, wherein, this Court held that the P.S.C. can be required to make selection to the posts under the Pollution Control Board only through an Act of the State Legislature and not by any departmental direction. It will require an Act of the State Legislature or atleast subordinate legislation. As a matter of fact, at present, the responsibility for effecting appointments is yet to be entrusted to the P.S.C.

3. In so far as the second aspect is concerned, the learned standing counsel for the Pollution Control Board

Sri. M.K. Chandra Mohan Das refers to Exhibit R2 (g) which is the communication issued by the Government to the Pollution Control Board on 3.4.2007 requiring the Board to follow the proceedings therein in the matter of conducting selection to the posts of Assistant Engineer and Junior Scientific Assistant. Learned counsel for the petitioner Mr. Sreekumar submits that Exhibit R2 (g) cannot be treated as an approval by the Government because it evidences the interference by the Government in the course of selection process that had already commenced. He refers to Exhibit R2 (c) in this regard.

4. Having considered Exhibits R2 (c)and R2 (g), I am of the view that since there is no statutorily prescribed procedure for the manner in which approval as such is to be granted by the Government, to the Pollution Control Board, approval could be conveyed by a communication in the nature of Exhibit -R2 (g) also.

5. In the circumstances, I am not in a position to find any illegality as regards the selection process currently undertaken by the Pollution Control Board but at the same time I record the stand taken by the Government in Exhibit R2 (g) to the effect

that further recruitment to the posts of Assistant Engineer and also Junior Scientific Assistant in the Pollution Control Board shall be done only with the intervention of the P.S.C. Obviously, the stand taken in Exhibit R2 (g) is binding both on the Government as well as the Pollution Control Board.

The writ petition is disposed of as above.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007